

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

Federal-State Joint Board on
Universal Service

CC Docket No. 96-45

**COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND
THE CALIFORNIA PUBLIC UTILITIES COMMISSION**

The People of the State of California and the California Public Utilities Commission (California or CPUC) hereby file these comments in response to the *Public Notice* (PN), released August 21, 2001, by the Federal-State Joint Board on Universal Service (Joint Board) of the Federal Communications Commission (FCC or Commission) regarding its review of the definition of universal service.

I. INTRODUCTION AND SUMMARY

In 1997, based on consideration of the Joint Board's recommendations, the Commission designated nine "core" services that are eligible for universal service support: single-party service; voice grade access to the public switched telephone network; Dual Tone Multifrequency signaling or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation services for qualifying low-income consumers.¹

The Joint Board invites comments on what services, if any, should be added to or removed from the list of core services eligible for federal universal service support and how

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776,

those core services should be defined. The four definitional criteria that the Joint Board and the Commission are required to consider under the 1996 Act are the extent to which the services in question (1) “are essential to education, public health, or public safety;” (2) “have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;” (3) “are being deployed in public telecommunications networks by telecommunications carriers;” and (4) “are consistent with the public interest, convenience, and necessity.”²

In particular, the Joint Board invited commenters to update the record on the definition of voice grade access, including whether support for a network transmission component of Internet access beyond the existing definition of voice grade access is warranted at this time. The Joint Board also sought comment on technical issues involved in modifying the current standard, including factors other than bandwidth that affect modem performance, and whether modification would encourage investment in enhanced analog modem performance to the detriment of investment in high-speed and advanced services. Additionally, the Joint Board invited comment on whether any advanced or high-speed services should be included within the list of core services.

Pursuant to state Senate Bill (SB) 1712 (Polanco, Ch. 943, Stats. 2000), enacted during the 2000 legislative session, the CPUC has pending a proceeding which examines the current and future definitions of California universal service and is required to report its findings and recommendations to the California Legislature on or before January 1, 2002. Consequently, the CPUC is examining many of the same issues for which the Joint Board requests comment in this *Public Notice* and intends to have a Report released early next year. In particular, SB 1712

8807-25, para. 56-87 (1997) (*First Report and Order*).

²47 U.S.C. section 254(c)(1)(A)-(D).

directs the Commission to investigate “the feasibility of redefining universal telephone service by incorporating two-way voice, video, and data service as components of basic service” and to investigate the feasibility of expanding the definition of universal service to include high-speed access services. Integrally related to the issues raised by SB 1712 is the definition of universal service the CPUC adopted in D.96-10-066. The adopted definition essentially reflects this Commission’s determination, in 1996, as to what telecommunications services are so essential as to be considered a necessary part of basic service and therefore subject to support mechanisms to ensure their availability. In addition, parties are allowed to propose revisions to the California Teleconnect Fund (CTF) adopted in D.96-10-066, which provides discounts for certain telecommunications services used by qualifying schools, libraries and community-based organizations. Attached to these comments is the CPUC’s *Order Instituting Rulemaking*. California will defer commenting on the issues raised in this proceeding which are being examined in our own proceeding. After the CPUC issues its Report to the Legislature, California will be in a position to comment on these issues.

II. “SOFT DIAL TONE” OR “WARM LINE”

The Joint Board also sought comment on whether “soft dial tone” or “warm line” services should be included within the list of core services. These services enable an otherwise disconnected line to be used to contact emergency services (911) and the local exchange carrier’s central business office. In particular, the Joint Board invited comment on the extent to which these services are essential to the public health or safety, and how such connections to eligible telecommunications carriers may be provided consistent with the principles of competitive neutrality.

California Public Utilities (P.U.) Code section 2883, enacted in 1994 and amended in 1995, prior to the 1996 decision defining universal service in California, requires all local exchange carriers, to the extent permitted by existing technology or facilities, to equip every existing and newly installed residential telephone line with access to 911 even if a customer has not yet placed an order for service or has been disconnected, unless it would preclude providing service to residential subscribers.³ These lines are called “warm lines.” This requirement, which benefits all California customers, ensures that all of a local telephone corporation’s telephone lines have the capability to connect calls to 911 emergency services and prohibits the LECs from terminating access because a customer moves or fails to pay a telephone bill. Moreover, under the standards set forth in P.U. Code section 2883, the additional cost to require “warm line” services is de minimus. This is due in part to existing technology and the exception in PU Code section 2883 which provides that a local telephone corporation does not need to provide “warm line” services if it would preclude a local telephone corporation from providing service to subscribers of residential telephone service. Due to the fact that California’s own statute requires local telephone corporations to provide “warm lines,” these services are not included in

³Public Utilities Code section 2883 provides: “Access to “911” emergency service for residential telephone connections

(a) All local telephone corporations, excluding wireless and cellular telephone corporations, shall, to the extent permitted by existing technology or facilities, provide every existing and newly installed residential telephone connection with access to “911” emergency service regardless of whether an account has been established.

(b) The commission shall prohibit any corporation from terminating access to the services described in subdivision (a) for nonpayment of any delinquent account or indebtedness owed by the subscriber to the telephone corporation. A subscriber and a telephone corporation may arrange payment schedules to regain full service.

(c) The commission shall require telephone corporations to inform subscribers of the availability of the services described in subdivision (a) in a manner determined by the commission.

(d) This section shall not be construed to relieve any person of an obligation to pay a debt owed to a telephone corporation.

(e) Nothing in this section shall require a local telephone corporation to provide “911” access pursuant to this section if doing so would preclude providing service to subscribers of residential telephone service.”

California's basic services that are subsidized by California's universal service funds and there is no explicit subsidy for warm line services in California. However, this is not the case under the federal law. Consequently, because "warm line" services are essential to the public health and safety as well as the de minimus expense to implement the service, California recommends "warm line" services be included in the list of basic services subsidized by universal service support implemented similar to California's requirements established in P.U. Code section 2883. The text of P.U. Code Section 2883 is provided in note 3 below.

III. INTRASTATE OR INTERSTATE TOLL SERVICES, EXPANDED AREA SERVICE, OR PREPAID CALLING PLANS

The Joint Board also sought comment on whether intrastate or interstate toll services, expanded area service, or prepaid calling plans should be included in the list of supported services.⁴ California believes that none of these particular services warrant being included in the list of supported services to be subsidized by universal service because these services go beyond basic service. One of the fundamental concepts of universal service is for all customers to have access to the telephone network. Currently, basic service provides this by subsidizing local calling in one's community of interest, enabling a customer to reach schools, libraries, healthcare and governmental services in his or her local area. Consequently, we do not find intrastate or interstate toll services, or prepaid calling plans to be so essential as to be deemed a necessary part of basic service and therefore subject to support mechanisms to ensure their availability. With respect to "extended area service" (EAS)⁵, we note that in California, EAS is not included in

⁴ See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, 15 FCC RCd 25257 (2000) (*Referral Order*), 15 FCC Rcd at 2528, para. 2.

⁵ In California, we define "extended area service" as "an exchange service available to customers in a particular exchange or district area for communication throughout that exchange and other designated areas in accordance with the provisions of a

definition of basic service. However, we provide that “in exchanges with EAS, ULTS [Universal Lifeline Telephone Service]⁶ customers shall pay 50% of the applicable EAS increment.”⁷ California, therefore, has chosen to subsidize existing EAS for ULTS customers through our ULTS fund.⁸ The Commission should also refrain from including EAS in the list of “core” services as that would constitute an overly broad definition of basic service and there is insufficient justification to incur the costs associated with changing the definition of basic service to include EAS. The scope, desirability, and design of EAS varies considerably based on the needs and characteristics of the various states. If an individual state wishes to subsidize EAS through its own universal service fund, as California has done, it has the clear authority to do so under the provisions of the Telecommunications Act of 1996. Moreover, in this instance, California does not support an expansion of the federal program which will inevitably increase the size of the federal universal service fund and the current funding requirements imposed on net contributor states. States that are net contributors are already bearing a significant level of contribution to federal universal service programs.

IV. CONCLUSION

For the reasons set forth herein, California recommends that the FCC modify the nine core services eligible for federal universal service support to include “soft dial tone” or “warm line” services similar to the provisions found in California Public Utilities Code section 2883.

carrier’s exchange tariffs.” CPUC General Order 153, Section 2.1.18.

⁶ ULTS is a class of subsidized local telephone service designed to meet the minimum communication needs of low-income residential customers.

⁷ CPUC General Order 153, Section 7.1.6.1,

⁸ California’s “ULTS Trust Administrative Committee Fund (ULTS Fund)” is a repository of ULTS surcharge monies used to reimburse utilities and others as directed by the Commission for the costs associated with the provision and administration of the ULTS program. CPUC General Order 153, Section 2.1.49.

After California has concluded its Report to the California Legislature regarding very similar issues raised in this *Public Notice*, California will be in a position to comment on those issues.

Respectfully Submitted,

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November 5, 2001

ATTACHMENT

Mailed 5/29/2001**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Rulemaking on the Commission's Own
Motion to Comply with the Mandates of
Senate Bill 1712.

FILED
PUBLIC UTILITIES COMMISSION
MAY 24, 2001
SAN FRANCISCO OFFICE
RULEMAKING 01-05-046

ORDER INSTITUTING RULEMAKING**I. Introduction**

The Commission initiates this proceeding in response to Senate Bill (SB) 1712 (Polanco, Ch. 943, Stats. 2000), which was enacted during the 2000 legislative session. A copy of SB 1712 is attached to this Order Instituting Rulemaking (OIR) as Attachment A. SB 1712 requires the Commission to open a proceeding to "examine the current and future definitions of universal service" and to report its findings and recommendations to the Legislature on or before January 1, 2002. In particular, SB 1712 directs the Commission to investigate "the feasibility of redefining universal telephone service by incorporating two-way voice, video, and data service as components of basic service." SB 1712 lays out numerous objectives for this proceeding, which are detailed below, and directs the Commission to hold public hearings to encourage participation by a broad and diverse range of interests from all areas of the state.

Integrally related to the issues raised by SB 1712 is the definition of universal service this Commission adopted in D.96-10-066. A copy of the adopted universal service definition is attached to this OIR as Attachment B. The adopted definition essentially reflects this Commission's determination, in 1996, as to what telecommunications services are so essential as to be considered a necessary part of basic service and therefore subject to support mechanisms to ensure their availability. D.96-10-066 also established a process for customers or

carriers to petition the Commission for additions to the definition of basic service and established criteria to be used to evaluate such requests. (D.96-10-066, App. B at 6, 68 CPUC2d at 673-674). No parties have yet petitioned the Commission for a review of the basic service definition. Nevertheless, because a review of the definition of basic service is squarely raised by SB 1712, this proceeding will include a review of the definition of basic service adopted in D.96-10-066.

This OIR initiates and charts a process to achieve the objectives and directives of SB 1712 and to review and reconsider the definition of basic service adopted in D.96-10-066.

II. Scope of This Proceeding

A. Issues to be Addressed

SB 1712 has several explicit requirements for the required Commission proceeding both as to the subject matters to be investigated, overall policy considerations to be applied and directives as to the inclusiveness of participation from the widest range of interests within the states. Among the findings made by the Legislature in enacting SB 1712 are:

- (a) The Moore Universal Telephone Service Act, enacted in 1987, was intended to offer high quality basic telephone service at affordable rates to the greatest number of California residents, and has become an important means of achieving universal service by making residential service affordable to low-income citizens through the creation of a lifeline class of service.
- (b) Factors such as competition and technological innovation are resulting in the convergence of a variety of telecommunications technologies offering an expanded range of telecommunications services to users that incorporate voice, video, and data. These technologies have differing regulatory regimes and jurisdictions.

- (c) It is the intent of the Legislature that the commission initiate a proceeding investigating the feasibility of redefining universal telephone service by incorporating two-way voice, video, and data service as components of basic service. It is the Legislature's further intent that, to the extent that the incorporation is feasible, that it promote equity of access to high-speed communications networks, the Internet, and other services to the extent that those services provide social benefits that include all of the following:
 - (1) Improving the quality of life among the residents of California.
 - (2) Expanding access to public and private resources for education, training, and commerce.
 - (3) Increasing access to public resources enhancing public health and safety.
 - (4) Assisting in bridging the "digital divide" through expanded access to new technologies by low-income, disabled, or otherwise disadvantaged Californians.
 - (5) Shifting traffic patterns by enabling telecommuting, thereby helping to improve air quality in all areas of the state and mitigating the need for highway expansion.
- (d) For purposes of this section, the term "feasibility" means consistency with all of the following:
 - (1) Technological and competitive neutrality.
 - (2) Equitable distribution of the funding burden for redefined universal service as described in subdivision (c), among all affected consumers and industries, thereby ensuring that regulated utilities' ratepayers do not bear a disproportionate share of funding responsibility.

- (3) Benefits that justify the costs. (Pub. Util. Code § 871.7, SB 1712 § 1.)

Objectives of the proceeding are to include all of the following:

- (1) To investigate the feasibility of redefining universal service in light of current trends toward accelerated convergence of voice, video, and data, with an emphasis on the role of basic telecommunications and Internet services in the workplace, in education and workforce training, access to health care, and increased public safety.
- (2) To evaluate the extent to which technological changes have reduced the relevance of existing regulatory regimes given their current segmentation based upon technology.
- (3) To receive broad-based input from a cross-section of interested parties and make recommendations on whether video, data, and Internet service providers should be incorporated into an enhanced Universal Lifeline Service program, as specified, including relevant policy recommendations regarding regulatory and statutory changes and funding options that are consistent with the principles set forth in subdivision (c) of Section 871.7.
- (4) To reevaluate prior definitions of basic service in a manner that will, to the extent feasible, effectively incorporate the latest technologies to provide all California residents with all of the following:
 - (A) Improved quality of life.
 - (B) Expanded access to public and private resources for education, training, and commerce,
 - (C) Increased access to public resources enhancing public health and safety.

- (D) Assistance in bridging the "digital divide" through expanded access to new technologies by low income, disabled, or otherwise disadvantaged Californians.
- (5) To assess projected costs of providing enhanced universal lifeline service in accordance with the intent of this article, and to delineate the subsidy support needed to maintain the redefined scope of universal service in a competitive market.
- (6) To design and recommend an equitable and broad-based subsidy support mechanism for universal service in competitive markets in a manner that conforms with subdivision (c) of Section 871.7.
- (7) To develop a process to periodically review and revise the definition of universal service to reflect new technologies and markets consistent with subdivision (c) of Section 871.7.
- (8) To consider whether similar regulatory treatment for the provision of similar services is appropriate and feasible. (Pub. Util. Code § 883(b), SB 1712 § 2(b).)

We will also allow parties to recommend changes to the basic service definition in their comments, beyond those elements otherwise being considered in complying with SB 1712. Parties making such recommendations are urged to provide insight on the appropriateness of such changes utilizing, to the extent feasible, the criteria set forth in Appendix B, § 4.D.3. of D.96-10-066.

"3. In evaluating whether service elements should be added to or deleted from basic service the Commission will consider the following criteria:

- a. the service is essential for participation in society;

- b. a substantial majority, 65%, of residential customers subscribe to the service. Assess the following:
 - (1) availability of the service;
 - (2) the degree to which the service has been promoted by the carrier;
 - (3) the level of customer education which has been provided for the service;
 - (4) the communities which are presently being targeted for marketing and use of the service.
- c. the qualitative and quantitative benefits of adding the service outweigh the costs;
- d. availability of the service, or the number of subscribers would not increase without intervention."

In addition, we will allow parties to propose revisions to the California Teleconnect Fund (CTF) adopted in D.96-10-066. The CTF provides discounts for certain telecommunications services used by qualifying schools, libraries and community-based organizations. The CTF was designed, among other things, to "promote the development of a more advanced telecommunications infrastructure that will bring benefits to all Californians." (68 CPUC2d at 579.) As we consider expanding the definition of universal service, the Commission should consider modifications to the CTF as a supplemental or alternative means of addressing the goals identified in SB 1712.

We put parties on notice that this OIR will be the time and place for parties to propose any recommended changes to the rules adopted in D.96-10-066 regarding the definition of basic service and the CTF. The definition of basic service (App. B., Section 4) and the CTF (App. B., Section 8) will not be

included as issues in the upcoming review (discussed in Section II.B. below) of other rules and programs adopted in D.96-10-066.

We will consider all of the above issues as the subjects of this proceeding. They are identified in Attachment C of this decision as a series of matters upon which comment will initially be sought. Depending on the comments received, the topics being reviewed may be modified and additional comment sought.

B. Excluded Issues

This OIR will not revisit the rules and programs adopted in D.96-10-066 other than those described above. Specifically, it will not review: (1) the cost model for the California High Cost Fund-B (CHCF-B) or the adopted rules for the CHCF-B (App. B, rule 6); (2) the specific rules for ULTS set forth in Appendix B, Rule 5 of D.96-10-066;⁹ and (3) Rules 7 (Universal Service Working Group) and 9 (Consumer Information) in Appendix B of D.96-10-066.

In order to provide a timely and thorough report to the legislature by January 1, 2002, as SB 1712 mandates, it is necessary to limit the scope of this OIR to the issues identified in SB 1712 regarding the potential expansion of the definition of universal service. We note that D.96-10-066 indicated an intent to review the CHCF-B three years after that decision. However, delays in implementing the funding mechanism and other intervening events have made it necessary to postpone the review of the CHCF-B. This OIR is not the appropriate proceeding to review the cost model on which the CHCF-B is based. As we noted in D.96-10-066, review of the inputs and assumptions in a proxy model is likely to be “time consuming and contentious.” (68 CPUC2d at 632). The allotted time for this OIR does not permit inclusion of a review of the CHCF-B.

⁹ We note that some of these rules were the subject of D.00-10-028 in R.98-09-005.

We will initiate a separate proceeding to review the CHCF-B and to revisit other aspects of D.96-10-066.

III. Procedure to be Followed

It is our intention to solicit an initial round of opening and reply comments from a very broadly based group consistent with both the requirements of SB 1712 and our own desire to ensure that our examination of the definition of universal service is done with the greatest possible range of insight. This may be followed by additional requests for comment on explicit proposals as may be appropriate. Public participation hearings will likely be scheduled.

Parties are invited to submit opening and reply comments on the questions listed in Attachment C to this OIR. Those comments will also be the parties' opportunity, under Rule 6(c)(2) of the Commission's Rules of Practice and Procedure, to respond to the preliminary categorization, need for hearing, and preliminary scoping memo set forth in this OIR.

Initial opening comments will be filed and served on or before 60 days of the date this OIR/OII is issued. To allow service of comments, parties should indicate no later than 20 days from today's date by letter to the Commission's Process Office, 505 Van Ness Avenue, San Francisco, California 94102, whether they wish to be on the service list for this proceeding. Parties should reference this proceeding number. In addition to the party's name, the name of their representative (if any), their address, and telephone and facsimile numbers, an e-mail address should be provided by each party unless they state that they have no e-mail address. A service list will then be prepared and posted on the Commission's web site www.cpuc.ca.gov. Reply comments will be due 20 days after the due date for opening comments.

After a review has been undertaken of the comments and reply comments, a determination will be made as to whether additional comments will be

required prior to the preparation of proposed changes to the definition of basic services, universal service components and costs or other matters. Any proposed changes will be subject to a comment process as designated by the assigned Commissioner. While there will likely be public participation hearings, we do not anticipate a need for evidentiary hearings. However, any party who believes evidentiary hearings are required shall identify the specific topics on which they believe hearings are required, the nature of any evidence they would propose to sponsor at such hearing and why this cannot be adequately addressed by the comment or public participation hearing process.

IV. Preliminary Scoping Memo

The rules and procedures implementing many of the reforms contained in SB 960 are found in Article 2.5 the Commission's Rules of Practice and Procedure (Rules), which are posted on the Commission's web site. Pursuant to Rule 4(a), the rules in Article 2.5 shall apply to this proceeding. As per the provisions of SB 960, the present rulemaking is classified as a quasi-legislative proceeding and is expected to require public participation hearings. As stated above, we do not anticipate a need for evidentiary hearings, although, in their opening comments in the OIR, parties may seek to demonstrate that evidentiary hearings are required. In the preceding sections and in Attachment C, we have listed the issues to be considered in this rulemaking. This is a preliminary list of issues. The scope of this rulemaking may be modified after we receive comments from the parties.

Commissioner Geoffrey F. Brown shall be the Assigned Commissioner. The assigned Commissioner and ALJ shall develop a service list for this proceeding and further delineate issues related to scope and schedule for this proceeding. The dates of all events subsequent to the schedule for initial

opening and reply comments will be set by the assigned Commissioner and the ALJ.

The method and scope of the initial means for serving and providing notice of this order is contained in this order and shall be used for service until a service list for this proceeding is established as part of the initial comment process.

Those persons who do not want to be parties, and only want notice of the hearings, rulings, proposed decisions, and decisions may mail a written request to the Process Office requesting that they be added to the service list for information only. They shall include in their request the same information request of those desiring to be parties.

Those persons employed by the State of California who are interested in this proceeding may request that they be added to the "state service" section of the service list either by mailing a written request for "state service" status to the Process Office. Parties are obligated to serve all documents they may submit or file in this proceeding on all names appearing on the state service list.

Any party interested in participating in this investigation who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor Office in Los Angeles at (213) 576-7055, e-mail at publicadvisor.la@cpuc.ca.gov or in San Francisco (415) 703-207, e-mail at public.advisor@cpuc.ca.gov for assistance.

V. Ex Parte Communications

This proceeding is subject to Rule 7, which specifies standards for engaging in ex parte communications and the reporting of such communications. Pursuant to Rules 7(a)(4) and 7(d), ex parte communications will be allowed in this quasi-legislative proceeding without any restrictions or reporting

requirements unless and until the Commission modifies this determination of category.

IT IS ORDERED that:

1. A rulemaking is instituted on the Commission's own motion to address the requirements of Senate Bill 1712 (Ch. 943, Stats. 2000). The initial focus of this rulemaking will be the topics identified in this order and Attachment C.
2. Commissioner Brown shall be the Assigned Commissioner. The assigned Commissioner and ALJ shall develop a service list for this proceeding and further delineate issues related to scope and schedule for this proceeding.
3. This rulemaking is preliminarily categorized as quasi-legislative as that term is defined in Rule 5(d) of the Commission's Rules of Practice and Procedure.
4. Persons interested in having their names added to the service list for this proceeding shall follow the procedures described in this order.
5. Parties interested in providing comments regarding the topics of this rulemaking and investigation shall file and serve their comments on or before 60 days from the date of issuance of this order in accordance with the Commission's Rules of Practice and Procedure and the procedures described in this order. Reply comments shall be filed and served no later than 20 days after the due date for opening comments.
6. The opening and reply comments will also be the parties' opportunity, under Rule 6(c)(2) of the Commission's Rules of Practice and Procedure, to respond to the preliminary categorization, need for hearing, and preliminary scoping memo set forth in this OIR.
7. This order shall be posted at the Commission's Web Site and served by regular mail on all of the following:
 - a. All telecommunications carriers holding certificates of public convenience and necessity or wireless registration.

b. All parties to Rulemaking 95-01-020 and Investigation 95-01-021.

c. All cities and counties.

d. The following state agencies:

Trade and Commerce Agency
Business, Transportation and Housing Agency
State and Consumer Services Agency
Department of Information Technology
State Department of Education
State Department of Health Services
California State Library

8. Persons interested in being placed on the service list for the balance of this proceeding shall send a letter to the Commission's Process Office indicating that request no later than 10 days prior to the due date for comments. Such request shall reference this proceeding and indicate the requesters name, address, telephone number, fax number and e-mail address. An e-mail address is required unless certified that the requester does not have e-mail. Requesters shall also indicate if they have any objection to future service of notices, rulings and other matters in this proceeding being accomplished by electronic means, including e-mail, in Microsoft Word format.

This order is effective today.

Dated May 24, 2001, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN

Commissioners

ATTACHMENT A
BASIC SERVICE COMPONENTS ADOPTED IN DECISION 96-10-006

R.95-02-020, I.95-01-021 ALJ/JSW/gab **

APPENDIX B

Page 5

4. BASIC SERVICE

- A. Carriers providing local exchange residential service shall, at a minimum, provide all elements of basic service, except as provided for in Rule 4.C. below.
- B. Basic service includes the following service elements:
1. access to single party local exchange service;
 2. access to all interexchange carriers offering service to customers in a local exchange.
 3. ability to place calls;
 4. ability to receive free unlimited incoming calls;
 5. free touch tone dialing;
 6. free and unlimited access to 911/E911;
 7. access to local directory assistance, and access to foreign NPAs;
 8. Lifeline rates and charges for eligible customers;
 9. customer choice of flat or measured rate service;
 10. free provision of one directory listing per year as provided for in D.96-02-072;
 11. free white pages telephone directory;
 12. access to operator services; [*461]
 13. voice grade connection to public switched telephone network;
 14. free access to 800 or 800-like toll free services;
 15. one-time free blocking for information services and one time billing adjustments for charges incurred inadvertently, mistakenly, or that were unauthorized;
 16. access to telephone relay service as provided for in PU Code § 2881;
 17. free access to customer service for information about ULTS, service activation, service termination, service repair and bill inquiries.
- C. The seventeen smaller LECs shall be exempted from the basic service element that they be required to offer customers the choice of flat or measured rate service, unless the smaller LECs currently offer that option.

(END OF ATTACHMENT A)

ATTACHMENT B

Page 1

SB 1712, Ch. 943 Stats. 2000

An act to add Sections 871.7 and 883 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1712, Polanco. Universal telephone service.

The Moore Universal Telephone Service Act requires the Public Utilities Commission to establish a class of lifeline service necessary to meet minimum residential communications needs and establish rates and charges for that service.

This bill would require the commission, on or before February 1, 2001, to initiate an investigation to examine the current and future definitions of universal service, seeking input from a wide cross section of providers, users, state agencies, and convergent industries and reporting findings and recommendations, consistent with specified principles, to the Legislature. The bill would make related legislative findings and declarations.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 871.7 is added to the Public Utilities Code, to read:

871.7. The Legislature finds and declares all of the following:

(a) The Moore Universal Telephone Service Act, enacted in 1987, was intended to offer high quality basic telephone service at affordable rates to the greatest number of California residents, and has become an important means of achieving universal service by making residential service affordable to low-income citizens through the creation of a lifeline class of service.

(b) Factors such as competition and technological innovation are resulting in the convergence of a variety of telecommunications technologies offering an expanded range of telecommunications services to users that incorporate voice, video, and data. These technologies have differing regulatory regimes and jurisdictions.

(c) It is the intent of the Legislature that the commission initiate a proceeding investigating the feasibility of redefining universal telephone service by incorporating two-way voice, video, and data service as components of basic service. It is the Legislature's further intent that, to the extent that the incorporation is feasible, that it promote equity of access to high-speed communications networks, the Internet, and other services to the extent that those services provide social benefits that include all of the following:

(1) Improving the quality of life among the residents of California.

(2) Expanding access to public and private resources for education, training, and commerce.

ATTACHMENT B

Page 2

(3) Increasing access to public resources enhancing public health and safety.

(4) Assisting in bridging the "digital divide" through expanded access to new technologies by low-income, disabled, or otherwise disadvantaged Californians.

(5) Shifting traffic patterns by enabling telecommuting, thereby helping to improve air quality in all areas of the state and mitigating the need for highway expansion.

(d) For purposes of this section, the term "feasibility" means consistency with all of the following:

(1) Technological and competitive neutrality.

(2) Equitable distribution of the funding burden for redefined universal service as described in subdivision (c), among all affected consumers and industries, thereby ensuring that regulated utilities' ratepayers do not bear a disproportionate share of funding responsibility.

(3) Benefits that justify the costs.

SEC. 2. Section 883 is added to the Public Utilities Code, to read:

883. (a) The commission shall, on or before February 1, 2001, issue an order initiating an investigation and opening a proceeding to examine the current and future definitions of universal service. That proceeding shall include public hearings that encourage participation by a broad and diverse range of interests from all areas of the state, including, but not limited to, all of the following:

(1) Consumer groups.

(2) Communication service providers, including all providers of high-speed access services.

(3) Facilities-based telephone providers.

(4) Information service providers and Internet access providers.

(5) Rural and urban users.

(6) Public interest groups.

(7) Representatives of small and large businesses and industry.

(8) Local agencies.

(9) State agencies, including, but not limited to, all of the following:

(A) The Trade and Commerce Agency.

(B) The Business, Transportation and Housing Agency.

(C) The State and Consumer Services Agency.

(D) The Department of Information Technology.

(E) The State Department of Education.

(F) The State Department of Health Services.

(G) The California State Library.

(10) Colleges and universities.

(b) The objectives of the proceeding set forth in subdivision (a) shall include all of the following:

(1) To investigate the feasibility of redefining universal service in light of current trends toward accelerated convergence of voice, video, and data, with an emphasis on the role of basic telecommunications and Internet services in the workplace, in education and workforce training, access to health care, and increased public safety.

ATTACHMENT B

Page 3

(2) To evaluate the extent to which technological changes have reduced the relevance of existing regulatory regimes given their current segmentation based upon technology.

(3) To receive broad-based input from a cross section of interested parties and make recommendations on whether video, data, and Internet service providers should be incorporated into an enhanced Universal Lifeline Service program, as specified, including relevant policy recommendations regarding regulatory and statutory changes and funding options that are consistent with the principles set forth in subdivision (c) of Section 871.7.

(4) To reevaluate prior definitions of basic service in a manner that will, to the extent feasible, effectively incorporate the latest technologies to provide all California residents with all of the following:

(A) Improved quality of life.

(B) Expanded access to public and private resources for education, training, and commerce.

(C) Increased access to public resources enhancing public health and safety.

(D) Assistance in bridging the "digital divide" through expanded access to new technologies by low income, disabled, or otherwise disadvantaged Californians.

(5) To assess projected costs of providing enhanced universal lifeline service in accordance with the intent of this article, and to delineate the subsidy support needed to maintain the redefined scope of universal service in a competitive market.

(6) To design and recommend an equitable and broad-based subsidy support mechanism for universal service in competitive markets in a manner that conforms with subdivision (c) of Section 871.7.

(7) To develop a process to periodically review and revise the definition of universal service to reflect new technologies and markets consistent with subdivision (c) of Section 871.7.

(8) To consider whether similar regulatory treatment for the provision of similar services is appropriate and feasible.

(c) In conducting its investigation, the commission shall take into account the role played by a number of diverse but convergent industries and providers, even though many of these entities are not subject to economic regulation by the commission or any other government entity.

(d) The recommendations of the commission shall be consistent with state policies for telecommunications as set forth in Section 709, and with all of the following principles:

(1) Universal service shall, to the extent feasible, be provided at affordable prices regardless of linguistic, cultural, ethnic, physical, financial, and geographic considerations.

(2) Consumers shall be provided access to all information needed to allow timely and informed choices about telecommunications products and services that are part of the universal service program and how best to use them.

ATTACHMENT B
Page 4

(3) Education, health care, community, and government institutions shall be positioned as early recipients of new and emerging technologies so as to maximize the economic and social benefits of these services.

(e) The commission shall complete its investigation and report to the Legislature its findings and recommendations on or before January 1, 2002.

(END OF ATTACHMENT B)

ATTACHMENT C

Page 1

QUESTIONS FOR COMMENT

1. To what extent should the definition of universal service be modified to include digital access services, which allow the convergence of voice, video and data services? In addressing this, consider the role of basic telecommunications and Internet services in the workplace, in education and workforce training, access to health care, and increased public safety. (§ 883(b)(1))
 - a. Address the “feasibility” of any proposed change to the definition of universal service, as that term is defined in Section 871.7(d), including whether the benefits justify the costs and whether the funding burden can be equitably distributed so as to prevent regulated utility ratepayers from bearing a disproportionate share of funding responsibility.
 - b. What additional criteria should be used to determine the nature and definition of universal service?
2. To what extent have competition and advances in technology reduced the relevance of existing regulatory regimes given their current segmentation based upon technology? (§ 883(b)(2))
3. Should video, data, and Internet services be incorporated into an enhanced Universal Lifeline Service program? This should be addressed in the context of regulatory and statutory changes and funding options that are consistent with the principles set forth in Section 871.7(c). (§ 883(b)(3))
 - a. How should the Commission regulate video, data, voice over IP and Internet providers providing services included as part of an enhanced Universal Lifeline Service Program? What regulatory and legislative changes are needed at a state and/or federal level?

ATTACHMENT C

Page 2

- b. How would the Commission regulate and audit payments made to providers of video, data, and Internet services under an enhanced Universal Lifeline Service program?
 - c. Address the “feasibility” of implementing an enhanced Universal Lifeline Service Program, as that term is defined in Section 871.7(d).
4. To what extent should the definition of basic service be modified to incorporate the latest technologies? (§ 883(b)(4)) Consideration should be given to how this would impact California residents with respect to:
- a. Improved quality of life.
 - b. Expanded access to public and private resources for education, training, and commerce.
 - c. Increased access to public resources enhancing public health and safety.
 - d. Assistance in bridging the "digital divide" through expanded access to new technologies by low income, disabled, or otherwise disadvantaged Californians.
 - e. What criteria should be used to determine whether and how the definition of basic service should be modified? Do the criteria set forth in D.96-10-066, Appendix B, Rule D, provide a useful analytical framework for making this determination?
 - f. Address the “feasibility” of modifying the definition of basic service to incorporate the latest technologies, as that term is used in Section 871.7(d).

ATTACHMENT C

Page 3

5. Should the CPUC find that it is not appropriate at this time to modify the basic service definition, what alternatives exist to promote Items 4.a through 4.f.
6. What is the projected cost of providing a redefined universal service? (§ 883(b)(5))
 - a. How should the Commission estimate the projected cost of providing enhanced universal service?
 - b. How should the Commission delineate the subsidy support needed to maintain the redefined scope of universal service in a competitive market?
7. What is the projected cost of providing enhanced Universal Lifeline Service?¹⁰ (§ 883(b)(5))
 - a. How should the Commission estimate the projected cost of providing enhanced Universal Lifeline Service?
 - b. How should the Commission delineate the subsidy support needed to maintain the redefined scope of Universal Lifeline Service in a competitive market?
8. If any changes to the definition of universal service or the scope of Lifeline service are proposed, do these changes necessitate any modifications to the Commission's current support mechanisms for universal service? (§ 883(b)(6))

¹⁰ In Resolution T-16435, the Commission projected there would be more than 3.7 million lifeline customers during 2001.

ATTACHMENT C

Page 4

9. Should the California Teleconnect program be revised? If so, how?
 - a. What is the projected cost of the revised California Teleconnect program? How should the Commission assess the projected cost of a revised California Teleconnect program.
 - b. How should the Commission design and structure an equitable and broad-based subsidy support mechanism for a revised California Teleconnect program?
10. What process and procedures should the Commission adopt to periodically review and revise the definition of universal service, as necessary, to reflect new technologies and markets consistent with the intent of Section 871.7(c). (§ 883(b)(7))
11. Is it appropriate and feasible to have similar regulatory treatment for the provision of similar service? (§ 883(b)(8))
 - a. What criteria should be used to determine when it is appropriate and feasible to have similar regulatory treatment for similar services?
 - b. Is it appropriate and feasible to have the same regulatory treatment for all services included within a revised definition of basic service, regardless of the type of carrier or technology used to deliver the service?
 - c. Is it appropriate and feasible to have the same regulatory treatment for all services included within the redefined universal service, regardless of the type of carrier or technology used to deliver the service?
 - d. Is it appropriate and feasible to have the same regulatory treatment for all services included within an enhanced Universal Lifeline Service, regardless of the type of carrier or technology used to deliver the service?

ATTACHMENT C

Page 5

12. How should the Commission evaluate whether the projected costs of the enhanced programs are excessive or reasonable?
13. Are there alternatives to revising the basic service definition at this time that can achieve the enhanced service objectives at lower cost?
14. When is it appropriate to provide subsidies for “digital services” when individuals who may be subject to both “digital” universal service and lifeline program funding fees are not themselves subscribers to, or beneficiaries of the digital service?
15. Is access to digital services essential? Why? If not essential now, under what conditions should access to digital services be considered essential?
16. How much digital bandwidth access is essential?
17. Should the Commission reprioritize the use of available universal services subsidies? For example, should subsidies for digital access services take precedence over the significant percentage of California territory not served by any phone?
18. Is dial-up modem access to digital services (Internet) essential?
19. Is wireless phone service access to digital services (Internet) essential?
20. What should the Commission consider in determining whether wired or wireless digital service is essential?
21. Have the current Universal Service, Lifeline, and/or Teleconnect programs achieved their goals? Are the goals changing?
22. If program Universal Service, Lifeline, and/or Teleconnect Program goals are changing, what alternatives exist to achieve the new goals?

(END OF ATTACHMENT C)